



Attached are two multiple choice questions used in Texas Criminal Procedure on a prior examination. One of them, Question 12, is relatively easy and most students chose the correct answer. The other, Question 7, is difficult, and most students chose a wrong answer.

The majority of multiple choice questions on the exam will be somewhat more difficult than Question 12, and easier than Question 7.

The answers for the respective questions are printed at the bottom of each page, and the rationale for the answers is indicated.

12. If a police officer witness refers during his testimony at trial to the arrest report made by his partner but not to a report the witness himself made concerning the offense, the defense is entitled to see:

- (a) both documents because the witness used both to refresh his recollection.
- (b) the partner's report if its contents were the subject of the witness's testimony, and the witness's own report because he made the report.
- (c) the witness's report under the "use before the jury" rule, but not the report of his partner.
- (d) neither report unless he can show "particularized need."
- (e) either report if the defendant can produce Mr. Gaskin to authorize its production.

12. (b) - If the partner's report is used before the jury, the defense is entitled to see it for cross-examination. The officer's report is available under Gaskin. There is no indication that the witness used either report to refresh his recollection (a), or that he used his own report before the jury (c). "Particularized need" (d) relates to the production of grand jury transcripts. (e) is comic relief.